

EXHIBIT

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

EMERY STEVE BROWN)

PLAINTIFF)

VS.) CASE NO. 3:05-CV-0681-
CLAIMS MANAGEMENT, INC.) MHT-CSC

DEFENDANT)

AFFIDAVIT

Comes now **EMERY STEVE BROWN** and having been duly sworn
doth depose and say on oath as follows:

My name is Emery Brown and I am the Plaintiff in the above case.

I was injured while working for Wal-Mart on September 28, 2004, at the
Wal-Mart Store in Roanoke, Alabama.

Victoria Heppes-Greenspan was apparently assigned by CMI to manage
my claim concerning workmen's compensation benefits. All I knew was that
the lady who assisted me and whom I always dealt with was a lady named
Victoria.

I was never in a position to get any care or treatment for myself concerning my workmen's compensation claim other than what was allowed by CMI.

I was told by Victoria that I should go to Dr. Shirah for care and treatment. I did this and was diagnosed by Dr. Shirah after having an MRI done at his recommendation as having a torn rotator cuff. He told me I would need surgery for this and that he was not qualified to do this. He referred me to Dr. Holworth in Alexander City for further care and treatment.

Between the time of my seeing Dr. Shirah initially around October 4, 2004, up until the time that I finally got to see Dr. Holworth on October 27, 2004, I repeatedly told Victoria that I was in tremendous pain and that I needed some relief. Every time I called her I would complain to her about not getting me care and treatment.

When she referred me to the orthopedist on October 27, I went to Dr. Holworth's office and he examined me and read my MRI report. He told me that I would need surgery and he scheduled me for surgery the following week on Monday. October 27, 2004 was on a Wednesday. He told me that I would need to go to the hospital and do my pre-op. When I left Dr. Holworth's office I had only been told by him that I needed surgery and that would be done on the following Monday.

I was not told by Dr. Holworth that waiting to have the surgery any longer would cause me further damage. He did not tell me that it should be done within six weeks of the injury for sure as he told CMI in his report of the October 27, 2004, visit. I was not given a copy of his October 27, 2004, record or told of his recommendations made to CMI.

When I arrived at home on October 27, 2004, after the visit to Dr. Holworth's, I was told that Victoria had called my house and said that the surgery had been cancelled.

I called her and she told me that my surgery was not medically necessary and that there were other forms of treatment available for me. I believed her and on this basis I did not do anything immediately. I did not go to see a lawyer to force them to get me my surgery immediately. I was at CMI's mercy and trusting them and relying on them to tell me the truth.

At no time on October 27, 2004 or thereafter did Victoria disclose to me that Dr. Holworth had told her that my surgery needed to be done immediately. I was never told that it should have been done within the first four weeks and that if it wasn't done within six weeks that irreparable harm would occur to me. Had I been told these facts I certainly would have immediately sought other medical care and treatment from any other source available instead of waiting around depending on her to get medical care and treatment for me.

I repeatedly called her asking her for help in getting me treatment and relief. She kept putting me off and telling me that my records had to be reviewed. She made me believe that the Defendant had to have my care and treatment reviewed by even more medical examiners. Had I known that this was not true I certainly would have sought other medical care and treatment immediately.

Victoria never told me that there was no evidence in CMI's files to deny my medical care and treatment as recommended by Dr. Holworth. She never told me there was no medical basis for the denial of my care and treatment as recommended by Dr. Holworth and Dr. Shirah. I consider these facts to be very material to me and believed that she should have disclosed these facts to me.

If I had been told the truth and not had these facts withheld from me I certainly could have undertaken action to try to get myself taken care by another source immediately. I felt deceived by her once I learned the content of Dr. Holworth's October 27 memo that she knew of on October 27. I did not learn the content of this until after my surgery when Dr. Holworth told me that had my surgery not been delayed so long he could have repaired my shoulder by doing laser surgery instead of having to put pins in me. He said I would not have had to have the second surgery if he could have operated on me earlier.

The pins that were put in me did not align correctly and I had to undergo another surgery recently because of this. I have suffered great pain and suffering and worry and anxiety as a result of my treatment by the Defendant. I begged for help and no one would listen to me. I called and called and begged for help and Victoria would not help me. It was nine weeks to the day after my injury that they finally got me the care and treatment that they knew I needed from the time the MRI was done on October 15.

Within two and one-half weeks of my injury CMI knew my condition and that I had a torn rotator cuff. They made me wait an additional six and one-half weeks after this, causing irreparable harm and damage to me before they approved my surgery.

The above facts are true and correct according to the best of my knowledge and belief.

Emery Steve Brown
Emery Steve Brown

STATE OF ALABAMA

RANDOLPH COUNTY

Before me, the undersigned authority, a Notary Public in the aforesaid County and State, personally appeared Emery Steve Brown, who first being duly sworn, deposes and says on oath that the statements contained in the foregoing are true and correct according to the best of his/her knowledge, information and belief.

Emery Steve Brown
Emery Steve Brown

SWORN to and subscribed before me on this the 21st day of September, 2006.

Judy A. Banks
Notary Public

NOTARY PUBLIC STATE OF ALABAMA AT LARGE.
MY COMMISSION EXPIRES: Sept 9, 2009
BONDED THRU NOTARY PUBLIC UNDERWRITERS

